

EXHIBIT A



November 13, 2018

VIA ELECTRONIC DELIVERY

The Privacy Office
U.S. Department of Homeland Security
245 Murray Lane, S.W.
STOP-0655
Washington, D.C. 20528-0655
foia@hq.dhs.gov

RE: Freedom of Information Act Records Request

Dear FOIA Officer:

Pursuant to the Freedom of Information Act ("FOIA"), 5 U.S.C. §§ 552 *et seq.*, and the U.S. Department of Homeland Security ("DHS" or the "Department") FOIA regulations beginning at 6 C.F.R. Part 5, the Democracy Forward Foundation ("Democracy Forward") submits this request.

I. Background

On May 23, 2017, various news outlets reported that Katharine Gorka had been hired by DHS as an adviser to the Department.¹ It was also reported at the time that Ms. Gorka had served on President Trump's "transition team," advising on homeland security matters.² Ms. Gorka's professional work has been criticized as Islamophobic, and she has been described as "a controversial national security analyst and anti-Muslim activist."³ This professional reputation has been further cemented by her work at DHS, where she has been "credited with convincing the department to claw back hundreds of thousands of dollars in grants for countering right-wing extremism and prioritizing the role of law enforcement in combating Islamic extremism."⁴ Recently, the Countering Violent Extremism program was scuttled entirely by the Department.⁵

¹ See, e.g., Alex Emmons, *Homeland Security Hires Anti-Islam Activist Katharine Gorka As Trump Makes Overtures To Muslim States*, The Intercept (May 23, 2017), <https://theintercept.com/2017/05/23/homeland-security-hires-anti-islam-activist-katharine-gorka-as-trump-makes-overtures-to-muslim-states/>.

² *Id.*

³ *Id.*

⁴ John Hudson, *The Gorka That Matters Isn't Leaving the Trump Administration*, BuzzFeed News (Aug. 29, 2017), <https://www.buzzfeednews.com/article/johnhudson/the-gorka-that-matters-isnt-leaving-the-trump-administration>.

⁵ See Peter Beinart, *Trump Shut Programs To Counter Violent Extremism*, The Atlantic (Oct. 29, 2018), <https://www.theatlantic.com/ideas/archive/2018/10/trump-shut-countering-violent-extremism-program/574237/>.

It appears that Ms. Gorka continues to serve as an adviser within DHS.⁶ Indeed, her public LinkedIn profile describes her as a “Senior Advisor” within DHS, serving from “Jan 2017 – Present.”⁷

II. Records Requested

In an effort to understand, and explain to the public, the status of Ms. Gorka’s employment at the Department and the scope of her work there, Democracy Forward requests that DHS produce the following records within twenty (20) business days:

1. All calendars or calendar entries for Katharine Gorka, including calendars maintained on behalf of Ms. Gorka (*e.g.*, by an administrative assistant). For calendar entries created through electronic platforms (*e.g.*, Outlook, Gmail, etc.), the records should be produced in such a form as to include all dates, time stamps, invitees, notes, and attachments.
2. All call logs, call sheets, or other records tracking or documenting incoming and outgoing telephone calls made by or to Katharine Gorka, or anyone placing or receiving telephone calls on her behalf (*e.g.*, an administrative assistant).
3. All visitor logs, guest books, sign-in sheets, or other records tracking or documenting in-person visitors to the Department who met with Katharine Gorka, including any such records maintained on behalf of Ms. Gorka (*e.g.*, by an administrative assistant).
4. All records created, sent, or received by Katharine Gorka that contain the phrases “violent extremism!,” “right-wing extremism!,” “right-wing terrorism!,” “CVE,” and/or any terms used within DHS to refer to the Countering Violent Extremism grant program or the Countering Violent Extremism Task Force.⁸
5. All records created, sent, or received by Katharine Gorka that contain the phrases “Islam! extremism!,” “Islam! violence!,” “Islam! terrorism!,” and/or “radical Islam!”⁹
6. All communications between Katharine Gorka and Sebastian Gorka.
7. All communications between Katharine Gorka and White House Advisor Stephen Miller.

In completing this request, please search for records created between January 20, 2017 and the date on which the search is completed.

⁶ *Id.* (noting “Katharine [Gorka] still serves as an adviser to the secretary of Homeland Security”).

⁷ Katharine Gorka, LinkedIn, last visited Nov. 9, 2018, <https://www.linkedin.com/in/katharine-gorka-1a595919/>.

⁸ The inclusion of “!” indicates a root expander. That is, responsive search terms include not only the root word, but also all reasonable variations that can be created by the addition of one or more letters to the end of the root word. For example, “Islam!” should prompt a search for the key word “Islam,” but also for key words “Islamic” and “Islamist.”

⁹ *See id.* (explaining how to apply the “!” root expander to a recommended search term).

Please search for records regardless of format, including paper records, electronic records, audiotapes, videotapes, photographs, data, and graphical materials. This request includes, without limitation, all correspondence, letters, emails, text messages, calendar entries, facsimiles, telephone messages, voice mail messages, and transcripts, notes, minutes, or audio or video recordings of any meetings, telephone conversations, or discussions. In searching for responsive records, however, please exclude publicly available materials such as news clips that mention otherwise responsive search terms.

FOIA requires agencies to disclose information, with only limited exceptions for information that would harm an interest protected by a specific exemption or where disclosure is prohibited by law. 5 U.S.C. § 552(a)(8)(A). In the event that any of the requested documents cannot be disclosed in their entirety, we request that you release any material that can be reasonably segregated. *See* 5 U.S.C. § 552(b). Should any documents or portions of documents be withheld, we further request that you state with specificity the description of the document to be withheld and the legal and factual grounds for withholding any documents or portions thereof in an index, as required by *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973). Should any document include both disclosable and non-disclosable material that cannot reasonably be segregated, we request that you describe what proportion of the information in a document is non-disclosable and how that information is dispersed throughout the document. *Mead Data Cent., Inc. v. U.S. Dep't of Air Force*, 566 F.2d 242, 261 (D.C. Cir. 1977).

If requested records are located in, or originated in, another agency, department, office, installation or bureau, please refer this request or any relevant portion of this request to the appropriate entity.

To the extent that the records are readily reproducible in an electronic format, we would prefer to receive the records in that format. However, if certain records are not available in that format, we are willing to accept the best available copy of each such record.

Please respond to this request in writing within 20 business days as required under 5 U.S.C. § 552(a)(6)(A)(i). If all of the requested documents are not available within that time period, we request that you provide us with all requested documents or portions of documents that are available within that time period. If all relevant records are not produced within that time period, we are entitled to a waiver of fees for searching and duplicating records under 5 U.S.C. § 552(a)(4)(A)(viii)(I).

III. Request for Fee Waiver

Democracy Forward requests a waiver of document search, review, and duplication fees because the disclosure of the requested records is in the public interest and because disclosure is “likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.” 5 U.S.C. § 552(a)(4)(A)(iii). Democracy Forward also requests a waiver of search fees on the ground that it qualifies as a “representative of the news media” and the records are not sought for commercial use. 5 U.S.C. § 552(a)(4)(A)(ii)(II).

The disclosure of requested records is “likely to contribute significantly to public understanding of the operations or activities of the government” because, as discussed above, news accounts underscore the substantial public interest in the records sought through this request. 5 U.S.C. § 552(a)(4)(A)(iii). Given the ongoing and widespread media attention, the records sought will contribute significantly to public understanding of an issue of profound public importance. Moreover, Democracy Forward is a nonprofit organization organized under Internal Revenue Code § 501(c)(3) and is dedicated to promoting policy engagement and civic education. As a nonprofit organization, it does not have a commercial interest in the records. The records obtained from this request will be made available to the public at no cost.

Democracy Forward also requests a waiver of search fees because it is a “representative of the news media” and the records are not sought for commercial use. 5 U.S.C. § 552(a)(4)(A)(ii)(II). Democracy Forward meets the definition of “representative[s] of the news media” because it gathers information, exercises editorial discretion in selecting and organizing documents, and “distributes the resulting work to the public.” *Nat’l Sec. Archive v. U.S. Dep’t of Defense*, 880 F.2d 1381, 1387 (D.C. Cir. 1989). It is therefore a “representative of the news media” for the same reasons it is “primarily engaged in disseminating information.” 5 U.S.C. §§ 552(a)(4)(A)(ii)(II), 552(a)(6)(E)(v)(II).

If the request for a waiver is denied, we are willing to pay all reasonable fees incurred for searching and duplicating records in responding to this request, up to \$100. If the costs of responding to this request should exceed that amount, please contact us before incurring costs exceeding that amount.

V. Conclusion

If you need clarification as to the scope of the request, have any questions, or foresee any obstacles to releasing fully the requested records within twenty (20) business days, please contact Jeffrey B. Dubner as soon as possible at foia@democracyforward.org or 202-448-9090.

We appreciate your assistance and look forward to your prompt response.

Sincerely,

/s/ Jeffrey B. Dubner
Jeffrey B. Dubner
Senior Counsel, Democracy Forward
Foundation

*Counsel for Democracy Forward
Foundation*